

### **REMARKS**

Claims 1-51 are now pending in this application. Claims 1, 3, 5, 8, 11, 20, 21, 23, 31-33, 36, 39, 50 and 51 are independent. Claim 10 is multiply dependent on claims 8 and 9. Claims 1, 3, 5, 8, 11, 20, 21, 23, 31-33, 36, and 39 have been amended, claims 49-51 have been added, and no claims have been canceled by this Amendment.

No new matter is involved with any claim amendment or new claim, as support may be found throughout the originally-filed disclosure.

### **Comments on Amendment After Final Rejection**

The Examiner is respectfully requested to enter this Amendment After Final, in that it raises no new issues, but merely places the claims in a form more clearly patentable over the references of record.

For example, a Terminal Disclaimer is being concurrently filed herewith, thus making claims 1 and 2 allowable. Further, an allowable feature of claim 1 is being appropriately incorporated into the remaining independent claims, thus making all independent claims allowable. These recitations are variously recited along the lines that the real time transfer protocol voice packet is addressed to at least one group with a port number. In addition, new independent claims 50 and 51 have been drafted to incorporate the allowable subject matter of claim 1 in claims directed to a server and to a method. Dependent claim 49 depends from now allowable independent claim 11.

Applicants submit that no new search should be necessitated by these amendments and new claims, as these features have been previously searched and determined to be allowable by the Examiner during the extensive prosecution of this application.

In the alternative, the Examiner is respectfully requested to enter this Amendment After Final in that it reduces the issues for appeal.

### **Provisional Obviousness-Type Double Patenting Rejection**

Withdrawal of the provisional rejection of claims 1-2 over claims 1-2 of commonly owned US patent application serial no. 10/474,944 (currently allowed, waiting payment of issue fee) under the judicially-created doctrine of obviousness-type double patenting is requested.

An obviousness-type double patenting rejection rests on the prohibition against issuance of a second patent that would continue protection beyond the expiration date of the reference patent of a mere variation of the first-patented invention that would have been obvious to those of ordinary skill in the relevant art.

Without admission of the propriety of the obviousness-type double patenting rejection as propounded by the Examiner, in the interests of expediting prosecution of this application and without prejudice or disclaimer as to the allowability of the claims as presently presented, a Terminal Disclaimer is being submitted herewith to disclaim the term of any patent that might issue from this application beyond the patent term of commonly-owned copending application serial no. 10/474,944.

Accordingly, entry of the Terminal Disclaimer, withdrawal of the obviousness-type double patenting rejection, and allowance of claims 1-2 are requested.

### **Anticipation Rejection by Sigler et al.**

Withdrawal of the rejection of claims 3-48 under 35 U.S.C. §102(b) as being anticipated by Sigler et al (US 5,717,830) ("Sigler") is requested. Sigler has been discussed in a previous response.

Applicants note that anticipation requires the disclosure, in a prior art reference, of each and every limitation as set forth in the claims.<sup>1</sup> There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. §102.<sup>2</sup> To properly anticipate a claim, the reference must teach every element of the claim.<sup>3</sup> "A claim is

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<sup>1</sup> *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985).

<sup>2</sup> *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991).

<sup>3</sup> See MPEP § 2131.

anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference".<sup>4</sup> "The identical invention must be shown in as complete detail as is contained in the ...claim."<sup>5</sup> In determining anticipation, no claim limitation may be ignored.<sup>6</sup> In view of the foregoing authority, the cited reference fails to anticipate independent claim 1, as amended.

### ***Specific Deficiencies of Sigler***

In light of the amendments to the previously non-allowed independent claims that incorporate the allowable features of claim 1, the currently-amended independent claims are submitted as clearly distinguishing over the applied art, Sigler.

#### **Independent Claim 3**

Sigler does not disclose a method that includes, *inter alia*, "***providing a group server layered on top of a communications system for packet mode group voice communication...*** starting a speech item in said group in response to receiving a leader packet from one of said group members to said group server over said individual logical connection, each leader packet containing the identifier of the respective group member...***wherein said leader packet and said subsequent voice packets received from one of said group members to said group server are real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said at least one group with a port number,***" as recited in independent claim 3, as amended (*emphasis added*).

#### **Independent Claim 5**

Similarly, Sigler does not disclose a method that includes, *inter alia*, "***providing a group server layered on top of a communications system and configured to serve a group communication group for a packet mode group voice communication...***ending said granted speech item if said first timer expires indicating that said predetermined idle period has elapsed from said granting or from last reception of a voice packet from said one group member, and

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<sup>4</sup> *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

<sup>5</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

*wherein said voice packets are real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said at least one group with a port number,”* as recited in independent claim 5, as amended (*emphasis added*).

#### **Independent Claim 8**

Further, Sigler does not disclose a method that includes, *inter alia*, “providing a server layered on top of the communications system and *configured to manage traffic streams addressed to a user who is active in at least one group communication group for a packet mode group voice communication or in a packet mode one-to-one voice communication*, receiving at said user specific server a first voice packet stream related to a first group or one-to-one communication and forwarding said first voice packet stream to said respective user, *said first voice packet stream received at said user specific server comprising real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said first group or one-to-one communication with a port number*...receiving at said user specific server at least one further voice packet stream related to at least one further group or one-to-one communication, *said further voice packet stream received at said user specific server comprising real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said at least one further group or one-to-one communication with a port number*...,” as recited in independent claim 8, as amended (*emphasis added*).

#### **Independent Claim 11**

In addition, Sigler does not disclose a server system that includes, *inter alia*, “*a group server provided on a layer on top of a communications system for providing a packet mode group communication service*, said group server further comprising...said group server being configured to receive voice packets from said group members, each received voice packet containing information identifying the communication group which the respective packet is addressed to, *wherein said voice packets received from one of said group members to said group server are real-time transfer protocol voice packets, each real-time transfer protocol*

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<sup>6</sup> *Pac-Tex, Inc. v. Amerace Corp.*, 14 USPQ2d 187 (Fed. Cir. 1990).

*voice packet being addressed to said at least one group with a port number...*,” as recited in independent claim 11, as amended (*emphasis* added).

#### **Independent Claim 20**

Furthermore, Sigler does not disclose a server system that includes, *inter alia*, “a group server provided on a layer on top of a communications system for providing a packet mode group communication service, *wherein...said group server is configured to receive voice packets from at least one of said group members to said group server, said voice packets received from one of said group members to said group server being real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said at least one group with a port number...*,” as recited in independent claim 20, as amended (*emphasis* added).

#### **Independent Claim 21**

Similarly, Sigler does not disclose a server system that includes, *inter alia*, “at least one first server provided on a layer on top of the communications system and *configured to provide group specific communications functions for a packet mode group communication...said first server being configured to receive voice packets from said group members, said voice packets received from said group members to said group server being real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said at least one group with a port number...*,” as recited in independent claim 21, as amended (*emphasis* added).

#### **Independent Claim 23**

Similarly, Sigler does not disclose a server system that includes, *inter alia*, “at least one group server provided on a layer on top of the communications system and *configured to provide group specific communications functions for a packet mode group voice communication*, said group server further comprising...*said group server is configured to receive voice packets from of said group members to said group server, said voice packets received from said group members to said group server being real-time transfer protocol voice*

*packets, each real-time transfer protocol voice packet being addressed to said at least one group with a port number...,” as recited in independent claim 23, as amended (emphasis added).*

#### **Independent Claim 31**

Similarly, Sigler does not disclose a server system that includes, *inter alia*, “***at least one group server provided on a layer on top of the communications system for a packet mode group communication service*** and configured to provide group specific communications functions in a user plane...said group server being configured to receive voice packets from said group members, *said voice packets received from said group members to said group server being real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to one of said communication groups with a port number ...,”* as recited in independent claim 31, as amended (*emphasis added*).

#### **Independent Claim 32**

Similarly, Sigler does not disclose a device wherein, *inter alia*, “said device [is] ***configured to grant a speech item to one group member in group communication group at time in a packet mode group voice communication...said device being configured to receive voice packets from said group members, said voice packets received from said group members to said group server being real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to said communication group with a port number...,”*** as recited in independent claim 32, as amended (*emphasis added*).

#### **Independent Claim 33**

Similarly, Sigler does not disclose a device wherein, *inter alia*, “***said device [is] configured to manage traffic streams addressed to a user who is active in at least one group communication group or in one-to-one communication in a mobile communications system having a packet mode group voice communication feature,*** said device being configured to receive at least two voice packet streams addressed to a user who is active in at least two packet mode group or one-to-one voice communications, *each of said at least two said voice packet*

*streams received to said device comprising real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to one of said at least two group or one-to-one communications with a port number...*,” as recited in independent claim 33, as amended (*emphasis added*).

#### **Independent Claim 36**

Similarly, Sigler does not disclose a method that includes, *inter alia*, “...***starting a communication in response to receiving a leader packet from a sending user*** to said communication server over respective said individual logical connection, each leader packet containing an identifier of said sending user and a receiving user, said communication server either i) rejects said started speech item, or ii) grants the started speech item to said sending user and forwards said leader packet and subsequent voice packets to said receiving user on the basis of said received identifier of said receiving user, ***and wherein said leader packet and said subsequent voice packets received from said sending to said communication server are real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to a specific one-to-one voice communication with a port number...***,” as recited in independent claim 36, as amended (*emphasis added*).

#### **Independent Claim 39**

Finally, Sigler does not disclose a subscriber equipment wherein, *inter alia*, “said subscriber equipment being ***configured for packet data communication over a mobile communications system having a packet mode group voice communication service...wherein said voice packets sent from said subscriber equipment to said group communication server are real-time transfer protocol voice packets, each real-time transfer protocol voice packet being addressed to a group communication group with a port number...***,” as recited in independent claim 39, as amended (*emphasis added*).

Accordingly, since the applied art does not teach or suggest all the claimed limitations, reconsideration and allowance of independent claims 3, 5, 8, 11, 20, 21, 23, 31-33, 36, and 39 are respectfully requested. In addition, dependent claims 4, 6-7, 9-10, 12-19, 22, 24-30, 34-35, 37-38, and 40-48 variously and ultimately depend from these patentable independent claims, and are

submitted as being allowable at least on that basis, without further recourse to the patentable features recited therein.

### **Allowable Subject Matter**

Applicants note with appreciation the indication that claims 1-2 are drawn to allowable subject matter, and would be allowed if the obviousness-type double patenting rejection of these claims is overcome. A Terminal Disclaimer is being concurrently filed herewith, thus making claims 1-2 allowable.

Applicants have further amended independent claims 3, 5, 8, 11, 20, 21, 23, 31-33, 36, and 39 to incorporate allowable features from claim 1. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner.

### **New Claims**

Newly-presented claims 49-51 have been drafted to further define that which Applicants are entitled to claim, specifically, to recite the allowable features of claim 1 using alternative claim language. Claim 49 depends from allowable independent claim 11.

For example, the applied art does not disclose, teach, or suggest a server system that includes, *inter alia*, “**a group server provided on a layer on top of a communications system for providing a packet mode group voice communication service for said communications system...said group server being configured to receive real-time transfer protocol voice packets from one of said group members to said group server, each real-time transfer protocol voice packet being addressed to at least one group with a port number**, said group server being configured to forward said real-time transfer protocol voice packet individually to each receiving one of said group members on the basis of said individual addresses,” as recited in newly-presented independent claim 50 (*emphasis added*).



In addition, the applied art does not disclose, teach, or suggest a method that includes, *inter alia*, “**configuring subscriber equipment for packet data communication over a mobile communications system having a packet mode group voice communication service**, providing said subscriber equipment with a group communication application layered on top of said packet data communication...**sending and receiving by said group communication application real-time transfer protocol voice packets to and from said group communications server, each real-time transfer protocol voice packet being addressed to a group communication group with a port number**,” as recited in newly-presented independent claim 51 (*emphasis added*).

Consideration and allowance of newly-presented claims 49-51 are requested.

### **Conclusion**

All rejections having been addressed, Applicant submits that each of pending claims 1-53 in the present application is in immediate condition for allowance. An early indication of the same would be appreciated.

In the event the Examiner believes that an interview would be helpful in resolving any outstanding issues in this case, the Undersigned Attorney is available at the telephone number indicated below.

The Examiner is respectfully requested to enter this Amendment After Final, in that it raises no new issues, but merely places the claims in a form more clearly patentable over the references of record. In the alternative, the Examiner is respectfully requested to enter this Amendment After Final in that it reduces the issues for appeal.

For any fees that are due, including fees for excess claims, please charge Deposit Account Number 03-3975 from which the Undersigned Attorney is authorized to draw. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Date: January 7, 2008 (Monday)

Respectfully submitted,

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Attachment: Terminal Disclaimer